

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

September 27, 2006

- I.
PLEDGE OF
ALLEGIANCE**
- Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II.
ROLL CALL**
- Present: Ali-Santosa, Azevedo, Ciardella, Galang, Mandal, and Williams
Absent: Tabladillo
Staff: Bejines, Carrington, Hom and Pio Roda
- III.
PUBLIC FORUM**
- Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.
- There were no speakers from the audience.
- IV.
APPROVAL OF MINUTES
September 13, 2006**
- Chair Williams called for approval of the minutes of the Planning Commission meeting of September 13, 2006.
- On page 1, staff changed General Attorney to Attorney General. On page 4 and 5, staff changed Zycorp to Xicor.
- Motion** to approve the September 13, 2006 minutes as modified by staff.
- M/S: Mandal/Azevedo
AYES: 6
NOES: 0
- V.
ANNOUNCEMENTS**
- Staff had no announcements.
- Assistant City Attorney Richard Pio Roda announced that the applicants for the Planning Commission alternate position were notified that the City Council would be considering an item on the October 3rd agenda to amend the Planning Commission appointment procedures.
- Commissioner Mandal said that he received a personal letter from one of the residents in the Pines opposing the Jerry's market liquor license. Chair Williams noted that all Commissioners received the letter.
- VI.
CONFLICT
OF INTEREST**
- City Attorney Richard Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.
- There were no Commissioners that identified a conflict of interest.
- VII.
APPROVAL OF
AGENDA**
- Chair Williams called for approval of the agenda.
- Staff had no changes to the agenda.
- Motion** to approve the agenda.
- M/S: Azevedo/Mandal
AYES: 6
NOES: 0

**VIII.
CONSENT CALENDAR
None**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no items on the consent calendar.

**IX.
PUBLIC HEARING
1. USE PERMIT
AMENDMENT NO.
UA2006-2 (Continued from
August 23, 2006):**

Chair Williams announced that on behalf of the applicant, staff is requesting a continuance of use permit amendment no. UA2006-2 to October 25th for Jerry's Market because the applicant is requesting additional time to review the police records. He made a **motion** for staff to continue the item and re-notice the public hearing.

Commissioner Ali-Santosa said he received an e-mail from Rob Means addressed to the Planning Commission and Tom Williams stating that Mr. Means supports the applicant and would like the Planning Commission to support the project. He asked staff to put the e-mail on file.

Commissioner Azevedo asked if the Commission has to continue the public hearing and Chair Williams said not necessarily. Assistant City Attorney Richard Pio Roda said that there is a motion on the floor to continue the item and re-notice the public hearing.

Commissioner Azevedo said he would not support the motion and felt that the item should be dealt with tonight and not be continued again.

Commissioner Mandal asked if an item was on a previous agenda and then postponed, does staff have to give the applicant more time. Assistant City Attorney Pio Roda said it is not unusual for staff to continue items at the applicant's request. He stated that according to the Planning Commission Secretary, the public hearing was closed by the Commission on June 14th and was continued during the discussion portion. At this point in time, the Commission is in the discussion section of the applicant's use permit amendment, and that is the current state of the item at this time.

Commissioner Mandal asked the Assistant City Attorney to clarify the re-noticing procedures. Assistant City Attorney Pio Roda said the procedure is that the Commission holds the public hearing for items that legally require a public hearing where the public is invited to speak and the public hearing had been closed and staff did not advertise a public hearing for tonight's meeting because the item was continued during the discussion portion. Therefore, if the Commission wants to open the public hearing for this item, staff would have to re-advertise the public hearing item for the October 25th meeting if the commission would like to receive public testimony.

Commissioner Azevedo felt that staff should have advertise the public hearing for tonight's meeting and disagreed with the motion.

Commissioner Ali-Santosa said that he hopes that the Commission can close this case at the next meeting and Chair Williams said it is not unusual to continue an item.

Motion to continue Use Permit Amendment No. UA2006-2 to October 25, 2006 and re-notice the public hearing.

M/S: Williams/Galang

AYES: 5

NOES: 1 (Azevedo)

The meeting was adjourned at 7:12 p.m. to the next regular meeting of October 11, 2006.

**X.
ADJOURNMENT**

Respectfully Submitted,

Tom Williams
Planning and Neighborhood Services
Director

Veronica Bejines
Recording Secretary